IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Court No. 3

Criminal Misc. Application No. 359 of 2002

Shezad S/o Anwar-Ul-Haq
R/o village Tajpura P.S. Behat
District Saharanpur ……..Petitioner

Vs.

1. State of Uttaranchal.
2. District Forest Office Haridwar …….Respondents

Hon'ble Irshad Hussain, J.

Heard Sri K.S. Verma learned counsel for the petitioner and Sri Raman Shah learned A.G.A. for the respondents.

2- This is a petition under section 482 of the Code of Criminal Procedure for quashing of the impugned order dated 26-7-2002 passed by C.J.M. Haridwar as well as the judgment and order dated 5.6.2002 passed by the learned Sessions Judge Haridwar in his revisional jurisdiction and for release of tractor No. U.T.J. 4458.

3- The above vehicle was seized for and in connection with commission of an offences punishable under section 26 of the Indian Forest Act as well as under sections 379/411 I.P.C. when the vehicle was found transporting illegal cut Khair wood from the reserve forest. It appear that the Khair wood had been release in favour of the State and the vehicle is lying idle since then. From the perusal of the counter affidavit of Sri Inder Sain it is evident that no confiscation proceedings in relation to the said vehicle have been initiated although the occurrence took place on 25-9-2001. The vehicle is being kept out of use without any confiscation proceeding being initiated and, therefore, to avoid the loss to the said moveable property, it will be just and proper that the same is released in favour of the registered owners with necessary conditions.

4- In view of the above the order of rejection of the release application and the revision preferred against the order of the C.J.M. do not appear justified. Therefore, both the impugned orders are set aside and it is directed that the

tractor No. U.T.J. 4458 be release in favour of the registered owners, provided they show the registration certificate with payment of the receipt of the tax due and on their furnishing a bond of Rs. 20,000/- (two lacs) and an undertaking that they shall not transfer it till the decision of the criminal case against them and shall produce the same as and when required to do so by the trial court.

4- The petition is disposed of accordingly.

Dt. 10.11.03 **(Irshad Hussain, J.)**

ISB